Dear Mr. Vacek:

As administrator for the Kansas board of barber examiners you inquire whether the board is authorized to make a determination of an inmate/applicant's moral character prior to their entering a correctional facility's barber training program.

You indicate that the board would like to limit the risk of licensure denial based on the good moral character standard in subsection (a)(1) of K.S.A. 65-1812. The board would like to implement a screening procedure wherein a determination of
good moral character can be made for persons convicted of sexual offenses prior to their entering a corrections facility's barber training program.

There is no question that the board is authorized to make a determination of good moral character when application for licensure is made. K.S.A. 65-1812 requires the board determine an applicant for licensure is of "good moral character and temperate habits." The moral character standard has been upheld as an appropriate inquiry for licensure when the profession or trade operates directly on the person and thereby directly affects the health, safety and welfare of the public. 10 Am.Jur.2d Barbers § 1 (1963). See also Kansas State Board of Healing Arts v. Acker, 228 Kan. 145 (1980) (the standard withstood a challenge for vagueness).

In our judgment this authority cannot be exercised prior to licensure application. The Kansas board of barber examiners, as an administrative agency, is a tribunal of limited jurisdiction. 2 Am.Jur.2d Administrative Law, § 328, 345. Their jurisdiction, determined entirely by statute, lies with supervising and regulating the practice of barbering and the barbering industry. K.S.A. 65-1808; 65-1824. Prior to applying for licensure, an individual is not within the regulatory jurisdiction of the board.

In conclusion there exists no statutory authority for identifying suitable candidates for a correctional facility's barber training program.

Very truly yours,

ROBERT T. STEPHAN
Attorney General of Kansas

Guen Easley
Assistant Attorney General

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